

**EXECUTIVE BOARD – 22 MARCH 2016**

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| <b>Subject:</b>   | Proposed expansion of Fernwood Primary and Nursery School, Wollaton   |   |  |
| <b>Corporate Director(s)/ Director(s):</b>  | Alison Michalska, Corporate Director for Children and Adults<br>Pat & Sarah Fielding, Directors of Education  |   |  |
| <b>Portfolio Holder(s):</b>   | Councillor Sam Webster, Portfolio Holder for Schools  |   |  |
| <b>Report author and contact details:</b>   | Lucy Juby, Project Manager, School Organisation<br>Email: <a href="mailto:lucy.juby@nottinghamcity.gov.uk">lucy.juby@nottinghamcity.gov.uk</a> Tel. 0115 8765041<br>Rob Caswell, Programme Manager, Major Projects<br>E-mail: <a href="mailto:Robert.caswell@nottinghamcity.gov.uk">Robert.caswell@nottinghamcity.gov.uk</a> Tel: 0115 876 3408 |   |  |
| <b>Key Decision</b>   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   | <b>Subject to call-in</b>   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No          |
| <b>Reasons:</b> <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision   |   |   | <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital |
| Significant impact on communities living or working in two or more wards in the City  |   |   | <input type="checkbox"/> Yes <input type="checkbox"/> No                     |
| <b>Total value of the decision:</b> £1.250m   |   |   |  |
| <b>Wards affected:</b> Wollaton West  |   | <b>Date of consultation with Portfolio Holder(s):</b> 16 Feb 2016 |  |
| <b>Relevant Council Plan Key Theme:</b>   |   |   |  |
| Strategic Regeneration and Development  |   |   | <input type="checkbox"/>   |
| Schools   |   |   | <input checked="" type="checkbox"/>  |
| Planning and Housing  |   |   | <input type="checkbox"/>   |
| Community Services  |   |   | <input type="checkbox"/>   |
| Energy, Sustainability and Customer   |   |   | <input type="checkbox"/>   |
| Jobs, Growth and Transport  |   |   | <input type="checkbox"/>   |
| Adults, Health and Community Sector   |   |   | <input type="checkbox"/>   |
| Children, Early Intervention and Early Years  |   |   | <input type="checkbox"/>   |
| Leisure and Culture   |   |   | <input type="checkbox"/>   |
| Resources and Neighbourhood Regeneration  |   |   | <input type="checkbox"/>   |
| <b>Summary of issues (including benefits to citizens/service users):</b>  |   |   |  |
| <p>The Wollaton area is experiencing significant primary school place pressures, with a continued upward trend of pupil growth in the coming years.</p> <p>Between 21 September and 18 October 2015, a four week consultation with parents, carers, staff, governors and community members was undertaken on the proposal to expand Fernwood Primary School from 840 to 1050 places. Following this period of consultation, the Executive Board approved the next stage of the consultation process which was the issuing of statutory notices.</p> <p>Statutory notices were issued on 6 January 2016 and the representation period ended on 3 February 2016. One representation was made during this period, from the governing body of Fernwood Primary and Nursery School. The governing body support the proposal to expand the school, but on behalf of the school community, would like consideration to be given to a number of issues and suggestions regarding the design and building plans.</p> <p>This report seeks approval to implement the expansion.</p> |   |   |  |
| <b>Exempt information:</b> None   |   |   |  |
| <b>Recommendation(s):</b>   |   |   |  |
| <p><b>1</b> To approve the expansion of Fernwood Primary and Nursery School from an 840 place school to a 1050 place school, from September 2016.</p> <p><b>2</b> To approve the allocation of £1.250m of funding, as set out in section 4, for the expansion of Fernwood Primary and Nursery school, noting that £0.750m has already been approved in</p>  |   |   |  |

|          |   |
|----------|---|
|          | March 2016 for two classrooms (Delegated Decision reference 2370).  |
| <b>3</b> | To approve the procurement of the works as set out in the Business Cases in Appendix A.   |
| <b>4</b> | To delegate authority to the Head of Legal Services to enter into contract following the procurement process, subject to the project being within the agreed budget envelope. |

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The additional school places are needed to meet the needs of the school community. Due to the demand for places in the catchment area, Fernwood Primary has already started to admit extra pupils ahead of the formal expansion.
- 1.2 Fernwood Primary is an outstanding school, very popular and is always over-subscribed, with significant waiting lists across the year groups. More places are needed to meet the significant increase in the number of local children requiring a school place. The number of catchment children for Fernwood Primary has increased significantly since September 2014. To support this, the School have helpfully admitted an additional Reception class this year to accommodate the additional catchment children requiring a school place, but a longer term solution is needed
- 1.3 The Council and Executive Board have balanced the objections during consultation against the long term need for school places, both for current and future pupils and the views expressed will be considered in terms of prioritising any mitigating actions that are required to make the proposal work for all pupils.
- 1.4 The governing body is committed in its support for the proposal to expand the school (Appendix B: letter submission 2), but on behalf of the school community, would like consideration to be given to a number of issues and suggestions regarding the design, building plans and school facilities and possible measures for easing traffic management problems. The Council is working positively and in partnership with the governing body and leadership team to explore all issues raised and find solutions where possible.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 The national shortage of primary school places has been reflected across the City and extra capacity has been added in many schools. In the Wollaton area there is a continued upward trend of pupil growth in the coming years due to an increased birth rate, the continuing popularity of the area, particularly with families moving into the area, and new housing development.
- 2.3 A four week consultation on the proposed expansion ran from 21 September to 18 October 2015, with parents, carers, staff, governors and community members. Statutory Notices were hung on the gates of Fernwood Primary School on Wednesday 6 January 2016. They were also published on the Council website and in the Topper newspaper. The representation period ended on Wednesday 3 February 2016 and one representation was made during this period from the School's governing body.
- 2.4 Since receipt of the governing body's initial letter on 1 February 2016 (Appendix B: letter submission 1), officers from the School Organisation and Major Projects teams have met with the governing body to discuss all the issues raised, with a view to finding solutions which will support the continued outstanding educational provision which is currently delivered, while within the context of the budget available.

- 2.5 Although it is not possible to meet all of the school's requirements, agreement was made to further investigate the design and feasibility options with regards to the potential for delivering some specific priorities, such as slightly larger classrooms in the Key Stage 2 building, and an extension to the hall in the Key Stage 2 building.
- 2.6 A feasibility study has been commissioned to ascertain whether it is possible to expand Fernwood Primary School and the investment required. The outcome is summarised in the Business Cases at Appendix A. The Business Cases include details of the number of places and sets out the programme for both the expansion of Key Stage 1 and Key Stage 2, along with an assessment of the risks and benefits.
- 2.7 At this stage, it is estimated that the expansion of Fernwood Primary School would cost £2.000m. The expansion would be funded from the Basic Need Grant, held by the Council for primary phase expansion projects. If approved, the anticipated date of completion is by 1 September 2016 for the Key Stage 1 build and 30 August 2017 for the Key Stage 2 build. To meet the Key Stage 1 completion date, a separate delegated decision has been approved for £0.750m of funding to allow the works to commence on the first phase. This report requests approval to commit the remaining £1.250m.
- 2.8 This report asks for approval to enter into contract as set out in the Business Case. The project at Fernwood Primary School will be procured using the EMPAii framework, subject to being within the agreed budget and meeting the requirements of the City Council. The project will be delivered as a Design and Build contract.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 Other options were considered and explained in the previous Executive Board report, but were not considered viable, therefore the expansion of Fernwood Primary is currently the only recommendation to address the place pressure in Wollaton.

### **4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

#### **Capital**

- 4.1 £4.6m for Primary Schools Reorganisation for undeveloped schemes in areas with increased demand for places was approved (pending business case) as part of the Investment Strategy by Full Council in October 2014. Fernwood Primary and Nursery school is continuously oversubscribed and experiences increasing waiting lists. The total cost of this proposal is forecast at £2.000m. £0.750m has already been approved in a delegated decision in March 2016 for two classrooms. This report requests approval to commit the remaining £1.250m funding from the Basic Needs Grant for the expansion of this school to 1050 places.
- 4.2 The development is part of Primary Schools Re-Organisation Phase 2 which is to be funded from Basic Needs Grant (confirmed up until 2017/18). Over the past few years it has been usual to forecast future Basic Needs Grant and to use this indicative grant to build a programme of expansions, however, there is now some concern over likely future grants being awarded to local authorities, therefore

indicative grant will not be included in the funding envelope until there is some clarity.

- 4.3 The programme is currently balanced and remains within its current funding envelope, however, if costs increase significantly or new expansions are identified (in addition to those currently expected) it is likely that there will be a funding shortfall. Remaining expansions within the current plan which are not yet approved will be continuously monitored in order to ensure schemes being worked up can remain within the available and confirmed funding.
- 4.4 The capital programme will be amended accordingly.

#### **Revenue**

- 4.5 If the proposal to expand Fernwood Primary were approved then the Local Authority would fund the school for an additional class each year from the Pupil Growth Contingency Fund until the school is full (i.e. for the next six years). This funding would cover the period September to March of each year. Once the additional pupils were accounted for on the October Autumn Census after the September they were admitted, they would then be funded in the following financial year through the local funding formula.
- 4.6 The School Organisation Team will allocate funding to the school based on the eligibility criteria approved by Schools Forum. Table 1 outlines the funding criteria values based on the admission of an additional 30 pupils.

| <b>Funding Streams</b>                               | <b>£</b>     |
|--|--------------|
| Teacher M3 (7/12ths)                                 | 17,824       |
| Teaching Assistant Pt 22 (7/12ths)                   | 14,242       |
| Midday Supervisor Pt 8 (7/12ths)                     | 2,150        |
| Classroom set up costs per class                     | Up to £8,000 |
| Utilities (7/12ths) based on £150 per pupil per year | £2,625       |

The staffing and ancillary costs will be for the seven months (7/12ths) to cover the months between when additional pupils join the school in September and when the increased numbers are recognised in the budget the following year.

- 4.7 The Reception bulge class admitted in September 2015 was funded from the Dedicated Schools Grant Pupil Growth Contingency Fund £0.047m.
- 4.8 As stated in 4.1 the funding to meet the cost of the expansion of Fernwood Primary has been set aside within the Basic Needs Grant. However, the ongoing maintenance costs of building would have to be met from the schools budget.

## **5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

### **Legal implications**

- 5.1 The school organisation regime is set out in the Education and Inspections Act 2006 ("EIA"), regulations made under the EIA and guidance made by the Secretary of State, both statutory (using powers in the EIA) and non-statutory.

- 5.2 Under section 19 of the EIA, a local authority is required to publish a proposal to make a prescribed alteration to a maintained school. In essence, a prescribed alteration is one designated as such by regulations. Currently, the relevant regulations are the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (“the Prescribed Alterations Regulations 2013”).
- 5.3 The proposal referred to in this report: to expand Fernwood Primary School (“Fernwood”) by increasing the number of pupils to be accommodated from an 840 place primary school to a 1,050 place primary school, with an anticipated date of completion for the Key Stage 1 build of 1 September 2016 and an anticipated date of completion for the Key Stage 2 build of 30 August 2017, would be a prescribed alteration because it entails an enlargement of the premises of Fernwood, which would increase the capacity of Fernwood by more than 30 pupils and by 25 per cent or more or by 200 pupils or more.
- 5.4 Whilst the school organisation regime no longer has a ‘pre-publication’ consultation period, in public law terms such consultation is advisable. Indeed, this is reflected in the current statutory guidance entitled *School Organisation Maintained Schools Guidance for proposers and decision-makers* (January 2014) which states at paragraph 10: “Although there is no longer a prescribed ‘pre-publication’ consultation period for prescribed alterations, there is a strong expectation on schools and LAs to consult interested parties in developing their proposal prior to publication as part of their duty under public law to act rationally and take into account all relevant considerations...” Therefore, it was advisable that the proposal to expand Fernwood was consulted upon before being published. Having been consulted on, the proposal to expand Fernwood was formally published on 6 January 2016 with a four week representation period.
- 5.5 With the representation period for the proposal having ended on 3 February 2016, under regulation 6 of and Schedule 3 to the Prescribed Alterations Regulations 2013 the Executive Board is now required to consider and determine the proposal. Under Schedule 3, paragraph 5(1) of the Prescribed Alterations Regulations 2013, in determining the proposal the Executive Board may:
- (a) reject the proposal;
  - (b) approve the proposal without modifications; or
  - (c) approve the proposal with such modifications as the local authority think desirable, having consulted the governing body (unless the modifications are proposed by the governing body).
- 5.6 Under Schedule 3, paragraph 5(2) of the Prescribed Alterations Regulations 2013, where proposals are approved by the local authority (whether with or without modifications), the approval may be conditional on the occurrence of an event prescribed in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations 2013 (which includes the entering into an agreement for any necessary building project supported by the Department for Education). If the approval is expressed to take effect only if the event occurs, the event must occur by the date specified in the approval.
- 5.7 Under Schedule 3, paragraph 5(3) of the Prescribed Alterations Regulations 2013 any determination under paragraph 5(1) must be made within the period of two months of the end of the representation period (that is, by 3 April 2016 for the proposal under consideration here). Where the local authority does not make a determination within the period prescribed by Schedule 3, paragraph 5(3) of the

Prescribed Alterations Regulations 2013, the proposal must be referred to the Schools Adjudicator.

- 5.8 Lastly, it is advisable that Human Resources (“HR”) and legal advice is taken in relation to the HR, employment law and commercial law ramifications of the proposals here.

**Procurement advice**

- 5.9 The EMPAii Regional Intermediate Framework with GF Tomlinson provides both a compliant and value for money option for the procurement of these works to be undertaken.

**HR advice**

- 5.10 In terms of any other workforce implications, the governing body will need to give careful consideration to the appropriate staffing establishment and the potential need to make suitable appointments to ensure the school is adequately resourced in line with School Teacher's Pay & Conditions, Staffing Guidance under the Education Act 2002, and the Restructuring, Recruitment, and Pay Policies adopted by the governing body.
- 5.11 HR and legal advice should be considered in the implementation of any new or extended staffing structures, to ensure appropriate consideration is given to employment law, policy and practice.

**6 STRATEGIC ASSETS & PROPERTY COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

- 6.1 The site is owned by the City and there are no property implications in connection with the proposed expansions subject to the appropriate statutory approvals being obtained including consultation with Sports England.

**7 SOCIAL VALUE CONSIDERATIONS**

- 7.1 None

**8 REGARD TO THE NHS CONSTITUTION**

- 8.1 N/A

**9 EQUALITY IMPACT ASSESSMENT (EIA)**

- 9.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA has already been submitted with the previous Executive Board report, to assess the equality impact of the proposal.

**10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

- 10.1 None

## **11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- 11.1 Portfolio Holder decision to commence consultation:  
[http://resmodw2k121/ieDecisionDetails.aspx?ID=3409&\\$LO\\$=1](http://resmodw2k121/ieDecisionDetails.aspx?ID=3409&$LO$=1)
- 11.2 Portfolio Holder decision 2184 – Early Works including design development to allow Fernwood Infant and Junior to expand.  
<http://committee.nottinghamcity.gov.uk/ieDecisionDetails.aspx?ID=3430>
- 11.3 Portfolio Holder decision 2370 - Approval of the allocation of funding for the provision of additional accommodation at Fernwood Primary school for September 2016.
- 11.4 Executive Board report – ‘Proposed expansion of Fernwood Primary School, Wollaton’, 22 December 2015.

## **12 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

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